

## **INFORMATION BULLETIN #17**

### **INCOME TAX**

**JANUARY 2003**

**(Replaces Information Bulletin #17 dated June 1992)**

**DISCLAIMER:** Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information, which is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Taxation and Filing Requirements of Not-For-Profit Organizations

**REFERENCES:** IC 6-3-2-2.8, IC 6-3-2-3.1

### **INTRODUCTION**

All organizations are subject to the adjusted gross income tax unless the income is specifically exempted from taxation under the provisions of the Adjusted Gross Income Tax Act (Indiana Code 6-3-2-2.8 and 6-3-2-3.1). All not-for-profit organizations will be subject to tax on income derived from unrelated trade or business as defined in Section 513 of the Internal Revenue Code.

#### **I. Recognition of Not-For-Profit Organizations**

An organization will not be considered exempt from tax until it applies to and is approved by the Indiana Department of Revenue to file as a not-for-profit organization. Application should be made on Form NFP20A, Application to File as a Not-For-Profit Organization, and must be made within one hundred twenty (120) days after the organization's formation. If federal not-for-profit status has been granted by the Internal Revenue Service, a copy of the determination letter should accompany the NFP20A.

For Indiana adjusted gross income tax purposes, the Department will accept the exempt status determination by the Internal Revenue Service.

Unlike the Internal Revenue Service, the Indiana Department of Revenue will not approve an application for group exemption for affiliated groups. Each affiliate must apply separately for exemption. International, national, state or similar governing bodies may submit one set of Articles of Incorporation, Constitution, By-laws, and similar information requested by the Department on behalf of affiliated groups within the state. However, each affiliate is required to file a separate application and submit a copy of its Constitution, By-laws, etc., if different from the information submitted by its governing body.

After considering the application and information submitted, the Department will notify each organization whether it should file as an exempt organization. If an organization's application to file as a not-for-profit organization is denied, a formal protest may be filed with the Department. If a protest is filed, an administrative hearing shall be scheduled in order to allow the organization to present additional evidence relevant to its application.

## II. Unrelated Business Income

All not-for-profit organizations are subject to Adjusted Gross Income Tax on their unrelated business income.

The term "unrelated business income" as defined in IRC Section 513 means income from a trade or business regularly carried on by the organization which is not substantially related to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption. A trade or business activity is regularly carried on when it manifests a frequency and continuity and is pursued in a manner generally similar to comparable commercial activities of nonexempt organizations. The trade or business is not substantially related to an organization's exempt purpose when it does not contribute importantly to the achievement of that purpose other than by the mere production of income.

An exempt organization receiving unrelated business income will compute its taxable income in the same manner as that of any other taxpayer receiving business income, except that business deductions may be taken only in so far as they are directly related to the production of taxable income.

For more information on "unrelated business income," and the computation of unrelated business taxable income, please refer to Internal Revenue Service Publication 598.

### III. Filing Requirements

In addition to filing an Application to File as a Not-For-Profit Organization, Form NFP20A, the organization must file an annual report, Form NFP20, with the Department on or before the fifteenth day of the fifth month following the close of the taxable year. If the organization fails to file the annual report, the Department will notify the organization of such failure. If, within sixty days after receiving such notice the organization does not file the annual report, the organization's exempt status will be canceled. The Department may reinstate the organization's exempt status if the organization shows by petition that the failure was due to excusable neglect. Extensions of time to file are available and must be filed with the return if it is filed after the due date.

Forms relating to not-for-profit organizations and their due dates are as follows:

	<u>FORM</u>	<u>FILING DATES</u>
IT-6	Indiana Corporation Estimated Quarterly Income Tax Return – Required if the not-for-profit organization's income tax liability in any quarter exceeds \$250	Due on the 20 <sup>th</sup> day of the 4 <sup>th</sup> , 6 <sup>th</sup> , 9 <sup>th</sup> and 12 <sup>th</sup> month of the taxable year.
IT-20NP	Not-For-Profit Organizations Return – Tax return for organizations reporting unrelated business income	Due the 15 <sup>th</sup> day of the 5 <sup>th</sup> month following the close of the tax year (accounting year of the not-for-profit organization)
NFP20A	Application to File as a Not-For-Profit Organization	Within 120 days after the not-for-profit organization is formed
NFP20	Annual Report of Not-For-Profit Organization-Required by all not-for-profit organizations	Due 15 <sup>th</sup> day of the 5 <sup>th</sup> month following the close of the tax year (accounting year of the not-for-profit organization)
NFP1	Not-For-Profit Tax Registration Certificate	Issued by the Department upon approval of application

The Department will allow not-for-profit organizations to attach copies of their annual federal reports and returns to the Indiana annual report, Form NFP20. Form NFP20 will serve as a cover document and must be signed by an authorized person. Completed federal forms 990, 990PF, 4720, or 5500-C can serve as attachments.

#### IV. Other Taxes

Registration of a not-for-profit organization does not relieve the organization from liability for other taxes or from other reporting requirements.

Special provisions apply to not-for-profit organizations with respect to sales tax. Certain purchases made by not-for-profit organizations are exempt from sales tax. Sales tax must be collected and remitted to the Department on sales made by not-for-profit organizations unless certain limitations are met. For further information please refer to sales tax Information Bulletin Number 10.

#### Miscellaneous Information

Other Income Tax Information Bulletins available from the Compliance Division which apply to Not-For-Profit Organizations are:

<u>Information Bulletin #</u>	<u>Subject</u>
11	Indiana Corporation Quarterly Income Tax Return (Form IT-6) Filing Requirements
50	Requirements for Certain Information Returns for Income Tax Purposes
84	Not-For-Profit Sponsored Gambling Activities

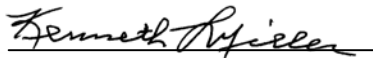
Sales Tax Information Bulletins available from the Compliance Division which apply to Not-For-Profit Organizations are:

<u>Information Bulletin #</u>	<u>Subject</u>
7	Application of Sales Tax to Meals and Banquets
10	Application of Sales Tax to Not-For-Profit Organizations
20	Casual Sales: Auctions; Garage Sales; Rummage Sales; and Similar Sales

V. Public Inspection

In accordance with Commissioner's Directive #6, the Department shall keep all applications for exemption and annual reports, available for public inspection during the Department's working hours. An advance request to inspect such records is recommended.

Questions concerning the taxation of not-for-profit organizations should be addressed to: Indiana Department of Revenue, Compliance Division, Not-For-Profit Section, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2253. The phone contact number is 317-232-2188. Forms are available on the Department's web site at ([www.in.gov/dor/](http://www.in.gov/dor/)).



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